

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect Children from Dangerous Drugs, Harmful Chemicals and Drug-related Violence**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 17-A MRSA §1105-A, sub-§1, ¶A,** as enacted by PL 2001, c. 383, §119 and affected by §156, is amended to read:

A. The person trafficks in a scheduled drug with or in the presence of a child who is in fact less than 18 years of age and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime;

**Sec. 2. 17-A MRSA §1105-A, sub-§1, ¶K,** as enacted by PL 2003, c. 476, §2, is amended to read:

K. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class A crime; ~~or~~

**Sec. 3. 17-A MRSA §1105-A, sub-§1, ¶L,** as enacted by PL 2003, c. 476, §2, is amended to read:

L. Serious bodily injury is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class B crime; ~~or~~

**Sec. 4. 17-A MRSA §1105-A, sub-§1, ¶M** is enacted to read:

M. The person trafficks or attempts to traffick in a schedule W drug at a residence at which a child less than 18 years of age resides and the basis of the offense is manufacturing or an attempt to manufacture methamphetamine, 3, 4 - methylenedioxymethamphetamine, 3, 4 - methylenedioxy amphetamine, lysergic acid diethylamide or fentanyl. Violation of this paragraph is a Class A crime.

**Sec. 5. 17-A MRSA §1252, sub-§5-A, ¶A,** as amended by PL 2001, c. 383, §151 and affected by §156, is further amended to read:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; except that when the conviction is under section 1105-A, subsection 1, paragraph M, the minimum term of imprisonment is 10 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year. This paragraph does not apply to a conviction under section 1105-A, subsection 1, paragraph A when the aggravating factor is trafficking in the presence of a child under 18 years of age;

## SUMMARY

This bill includes in the offense of aggravated trafficking of scheduled drugs trafficking in the presence of a child under 18 years of age but imposes a longer sentence for a conviction of aggravated trafficking on that basis than the mandatory minimum sentence. This bill also includes in the offense of aggravated trafficking of scheduled drugs trafficking at a residence at which a child of under 18 years of age resides and the basis for the offense is the manufacture or attempt to manufacture methamphetamine, 3, 4 - methylenedioxymethamphetamine (MDMA), 3, 4 - methylenedioxy amphetamine (MDA), lysergic acid diethylamide (LSD) or fentanyl.